

Land Acquisition and State Assistance/Appropriation Language, Changes and Citations

LAND ACQUISITION AND STATE ASSISTANCE

Appropriation Language

For expenses necessary to carry out the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460 1-4 through 11), including administrative expenses, and for acquisition of lands or waters, or interest therein, in accordance with the statutory authority applicable to the National Park Service, [\$110,540,000] \$557,036,000, to be derived from the Land and Water Conservation Fund, to remain available until expended, of which [\$40,500,000] \$450,000,000 is for the State assistance program including [\$1,500,000] \$9,000,000 to administer the State assistance program[, and of which \$12,000,000 may be for State grants for land acquisition in the State of Florida: *Provided*, That the Secretary may provide Federal assistance]: Provided, That the recreation purposes for which State assistance may be approved by the Secretary include the development and implementation of programs: for the benefit of wildlife and their associated habitat, including species that are not hunted or fished; for the conservation of endangered and threatened species; and for the protection, enhancement, restoration, and management of wetland ecosystems and other habitats for migratory birds and other fish and wildlife: Provided further, That of the amount available for the State assistance program, \$157,500,000 shall be apportioned equally among the several States as provided in 16 U.S.C. 460 1-8(b)(1), and \$273,500,000 shall be apportioned in the following manner: 30 percent is based on the ratio to which the land area of such State bears to the total land area of all such States; and 70 percent is based on the ratio to which the population of such State bears to the total population of the United States, based on the 2000 U.S. Census; and amounts so apportioned shall be adjusted equitably so that no State shall be apportioned a sum which is less than one percent of the total amount available for apportionment or more than ten percent: Provided further, That \$10,000,000 shall be apportioned to Federally recognized Indian tribes in accordance with a competitive grant program established by the Secretary consistent with the aforementioned purposes: Provided further, That a State's comprehensive statewide outdoor recreation plan shall be deemed adequate for funding programs consistent with such purposes so long as the State has had a comprehensive wildlife conservation and restoration plan approved by the Secretary as provided in 16 U.S.C. 669c(d); a cooperative agreement required for funding under section 6 of the Endangered Species Act (16 U.S.C. 1535); and proposes wetlands projects that are consistent with the purposes of the North American Wetlands Conservation Act (16 U.S.C. 440): Provided further, That of the amounts provided under this heading, \$15,000,000 may be for Federal grants to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area) under terms and conditions deemed necessary by the Secretary to improve and restore the hydrological function of the Everglades watershed; and \$20,000,000 may be for project modifications authorized by section 104 of the Everglades National Park and Expansion Act: *Provided further*, That funds provided under this heading for assistance to the State of Florida to acquire lands within the Everglades watershed are contingent upon new matching non-Federal funds by the State and shall be subject to an agreement that the lands to be acquired will be managed in perpetuity for the restoration of the Everglades: *Provided further*, That [none of the funds provided for the State Assistance program may be used to establish a contingency fund: *Provided further*, That not to exceed \$50,000,000 derived from unexpended balances previously appropriated in Public Laws 106-113 and 103-211 for land acquisition assistance to the State of Florida shall be available until expended for project modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act] funds provided under this heading to administer the State Assistance program may be used for administration of grants previously awarded under the Urban Park and Recreation Recovery Act.

Justification of Proposed Language Changes

1. Deletion: “, and of which \$12,000,000 may be for State grants for land acquisition in the State of Florida: *Provided*, That the Secretary may provide Federal assistance”

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The effect of the proposed deletion is to direct the funds earmarked for the State of Florida, as articulated later in the text, to the sole purpose of improving the hydrological function of the Everglades watershed. It removes the provision allowing these particular grants to be used for general land acquisition in that State.

2. Addition: “: Provided, That the recreation purposes for which State assistance may be approved by the Secretary include the development and implementation of programs: for the benefit of wildlife and their associated habitat, including species that are not hunted or fished; for the conservation of endangered and threatened species; and for the protection, enhancement, restoration, and management of wetland ecosystems and other habitats for migratory birds and other fish and wildlife:”

The proposed addition would broaden the definition of the recreational purposes for which State assistance funding may be used, to include the benefit of wildlife and associated ecosystems.

3. Addition: “Provided further, That of the amount available for the State assistance program, \$157,500,000 shall be apportioned equally among the several States as provided in 16 U.S.C. 460 l-8(b)(1), and \$273,500,000 shall be apportioned in the following manner: 30 percent is based on the ratio to which the land area of such State bears to the total land area of all such States; and 70 percent is based on the ratio to which the population of such State bears to the total population of the United States, based on the 2000 U.S. Census; and amounts so apportioned shall be adjusted equitably so that no State shall be apportioned a sum which is less than one percent of the total amount available for apportionment or more than ten percent: “

This language is proposed in order to establish a formula by which State assistance funding may be equitably distributed among States applying for grants. It would recognize the different needs generated by human populations versus land area, and would guard against any State receiving a disproportionately large or small share of available funds.

4. Addition: “Provided further, That \$10,000,000 shall be apportioned to Federally recognized Indian tribes in accordance with a competitive grant program established by the Secretary consistent with the aforementioned purposes:”

The proposed language would set aside funding for grants exclusively to Indian tribes, provided that the purposes for which it is used meet the same criteria as for State assistance grants.

5. Addition: “Provided further, That a State’s comprehensive statewide outdoor recreation plan shall be deemed adequate for funding programs consistent with such purposes so long as the State has had a comprehensive wildlife conservation and restoration plan approved by the Secretary as provided in 16 U.S.C. 669c(d); a cooperative agreement required for funding under section 6 of the Endangered Species Act (16 U.S.C. 1535); and proposes wetlands projects that are consistent with the purposes of the North American Wetlands Conservation Act (16 U.S.C. 440):”

This addition would set the standards which a State’s outdoor recreation plan must meet in order to qualify the State for grants under the expanded definition of recreation programs described above.

6. Addition: “Provided further, That of the amounts provided under this heading, \$15,000,000 may be for Federal grants”

This wording would replace language proposed above in #1 for deletion. It has the effect of insuring that earmarked funds are used for improving the Everglades watershed.

7. Addition: “; and \$20,000,000 may be for project modifications authorized by section 104 of the Everglades National Park and Expansion Act”

This proposed change would provide funds necessary for Everglades restoration.

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8. Deletion: “none of the funds provided for the State Assistance program may be used to establish a contingency fund: *Provided further*, That not to exceed \$50,000,000 derived from unexpended balances previously appropriated in Public Laws 106-113 and 103-211 for land acquisition assistance to the State of Florida shall be available until expended for project modifications authorized by section 104 of the Everglades National Park Protection and Expansion Act”

Deletion of this language would remove the prohibition against establishing a contingency fund using State assistance funds. In addition, it would remove language which would be replaced if the previous proposed addition were accepted.

9. Addition: “ funds provided under this heading to administer the State Assistance program may be used for administration of grants previously awarded under the Urban Park and Recreation Recovery Act”

This additional language is proposed in order to insure continued management of approximately \$25 million in outstanding Urban Park and Recreation Fund grants and \$3 million in unobligated funds, since no funds are proposed for the Urban Park and Recreation Fund appropriation in fiscal year 2002, from which administration of that program’s grant monies would otherwise be funded.

Appropriation Language Citations

1. For expenses necessary to carry out the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460 1-4 through 11),

16 U.S.C. 460 1-4 through 11

16 U.S.C. 460 1-4-11 contains the provisions of the Land and Water Conservation Fund Act of 1965, as amended, including authorization for appropriations to carry out the provisions of the act.

2. including administrative expenses,

16 U.S.C. 460 1-4 through 11

16 U.S.C. 460 1-4-11 is considered to provide implied authority to appropriate funds for administrative expenses to carry out the purposes of the act. This implied authority is recognized by Congress in appropriation language and appropriation committee reports designating specific amounts for administrative expenses.

3. and for acquisition of lands or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, \$ _____,

16 U.S.C. 460 1-9

16 U.S.C. 460 1-9 authorizes appropriations from the fund for "acquisition of land, waters, or interests in land or waters" for the National Park System and defines how this Federal land acquisition program shall be administered.

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4. to be derived from the Land and Water Conservation Fund,

16 U.S.C. 460 1-5 and 6

16 U.S.C. 460 1-5 and 6 establishes the Land and Water Conservation Fund, provides for \$900,000,000 annual revenues to the fund through fiscal year 2015, and authorizes appropriations from the fund.

5. to remain available until expended,

16 U.S.C. 460 1-6

16 U.S.C. 460 1-6 states that appropriations from the fund "may be made without fiscal year limitation."

6. of which \$_____ is for the State assistance program including \$_____ to administer the State assistance program:

16 U.S.C. 460 1-4 through 11

16 U.S.C. 460 1-4-11 is considered to provide implied authority to appropriate funds for administrative expenses of the state assistance program.

7. Provided, That the recreation purposes for which State assistance may be approved by the Secretary include the development and implementation of programs: for the benefit of wildlife and their associated habitat, including species that are not hunted or fished; for the conservation of endangered and threatened species; and for the protection, enhancement, restoration, and management of wetland ecosystems and other habitats for migratory birds and other fish and wildlife:

16 U.S.C. 460 1-8

16 U.S.C. 460 1-8 provides that the Secretary of Interior may impose such terms and conditions as he considers appropriate and in the public interest to carry out the purposes of the Land and Water Conservation Fund Act for outdoor recreation

8. Provided further, That of the amount available for the State assistance program, \$157,500,000 shall be apportioned equally among the several States as provided in 16 U.S.C. 460 1-8(b)(1), and \$273,500,000 shall be apportioned in the following manner: 30 percent is based on the ratio to which the land area of such State bears to the total land area of all such States; and 70 percent is based on the ratio to which the population of such State bears to the total population of the United States, based on the 2000 U.S. Census; and amounts so apportioned shall be adjusted equitably so that no State shall be apportioned a sum which is less than one percent of the total amount available for apportionment or more than ten percent: Provided further, That \$10,000,000 shall be apportioned to Federally recognized Indian tribes in accordance with a competitive grant program established by the Secretary consistent with the aforementioned purposes: Provided further, That a State's comprehensive statewide outdoor recreation plan shall be deemed adequate for funding programs consistent with such purposes so long as the State has had a comprehensive wildlife conservation and restoration plan approved by the Secretary as provided in 16 U.S.C. 669c(d); a cooperative agreement required for funding under section 6 of the Endangered Species Act (16 U.S.C. 1535); and proposes wetlands projects that are consistent with the purposes of the North American Wetlands Conservation Act (16 U.S.C. 440):

16 U.S.C. 460 1-8

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16 U.S.C. 460l-8 outlines requirements for distribution of funds to the States

9. Provided further, That of the amounts provided under this heading, \$15,000,000 may be for Federal grants to the State of Florida for the acquisition of lands or waters, or interests therein, within the Everglades watershed (consisting of lands and waters within the boundaries of the South Florida Water Management District, Florida Bay and the Florida Keys, including the areas known as the Frog Pond, the Rocky Glades and the Eight and One-Half Square Mile Area) under terms and conditions deemed necessary by the Secretary to improve and restore the hydrological function of the Everglades watershed;

16 U.S.C. 410r-5-8

16 U.S.C. 410r-5-8, the Everglades National Park Protection and Expansion Act of 1989, as amended, authorizes transfer of funds by the NPS to the State of Florida for land acquisition in certain areas.

10. and \$20,000,000 may be for project modifications authorized by section 104 of the Everglades National Park and Expansion Act:

16 U.S.C. 410r-8

Section 104 of the Everglades National Park Protection and Expansion Act of 1989 (Public Law 101-229), 16 U.S.C. 410r-8, authorizes certain modifications at Everglades National Park. Appropriations for this purpose are authorized by section 102(f) of the act, 16 U.S.C. 410r-6(f).

11. Provided further, That funds provided under this heading for assistance to the State of Florida to acquire lands within the Everglades watershed are contingent upon new matching non-Federal funds by the State and shall be subject to an agreement that the lands to be acquired will be managed in perpetuity for the restoration of the Everglades:

16 U.S.C. 410r-8(k)(3)

16 U.S.C. 410r-8(k)(3) provides that, "All funds made available pursuant to this subsection shall be transferred to the State of Florida or a political subdivision of the State, subject to an agreement that any lands acquired with such funds will be managed in perpetuity for the restoration of natural flows to the park or Florida Bay."

12. Provided further, That funds provided under this heading to administer the State Assistance program may be used for administration of grants previously awarded under the Urban Park and Recreation Recovery Act.

16 U.S.C. 2501-2514

16 U.S.C. 2501-2514 authorizes an urban park and recreation recovery grant program.

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LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year [2001] 2002 by 16 U.S.C. 460 l-10a is rescinded.